

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

JESSICA A., :
: Case No. 3:24-cv-232
Plaintiff, : Judge Thomas M. Rose
v. : Magistrate Judge Kimberly A. Jolson
: Defendant. :

**ENTRY AND ORDER OVERRULING PLAINTIFF'S OBJECTIONS TO THE
MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION (DOC. NO.
12); ADOPTING THE REPORT AND RECOMMENDATION (DOC. NO. 11);
OVERRULING PLAINTIFF'S STATEMENT OF SPECIFIC ERRORS (DOC.
NO. 8); AND, DISMISSING ACTION**

This social security disability benefits appeal is currently before the Court on Plaintiff's Statement of Specific Errors (Doc. No. 8), the Report and Recommendation ("R&R") (Doc. No. 11) of Magistrate Judge Kimberly A. Jolson, and Plaintiff's Objections to the Magistrate Judge's Report and Recommendation ("Objections") (Doc. No. 12). Plaintiff Jessica A. ("Plaintiff") challenges Magistrate Judge Jolson's recommendation that the Court affirm Defendant's decision to deny Plaintiff's application for disability insurance benefits ("DIB") and supplemental security income ("SSI"). (Doc. No. 12 at PageID 1317.)

In short, Plaintiff contends Magistrate Judge Jolson wrongly determined that the administrative law judge ("ALJ") in the proceedings below did not impermissibly fail to explain his deviation from positively weighed expert opinions. (*See* Doc. No. 12 at PageID 1313-17.) More specifically, Plaintiff objects to Magistrate Judge Jolson's finding that the ALJ in this case did not deviate from the positively weighed recommendations of any expert of record.

If a party objects within the allotted time to a United States magistrate judge's report and recommendation, then the Court "shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1); *see also* Fed. R. Civ. P. 72(b). Upon review, the Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." *Id.* The Court "may also receive further evidence or recommit the matter to the magistrate judge with instructions." *Id.* Regarding appeals from decisions of the Social Security Administration, the Court's "review of the ALJ's decision is limited to whether the ALJ applied the correct legal standards and whether the findings of the ALJ are supported by substantial evidence." *Blakley v. Comm'r of Soc. Sec.*, 581 F.3d 399, 406 (6th Cir. 2009).

The Court has made a *de novo* review of the record in this case and finds Plaintiff's Objections are not well taken. The Court agrees with Plaintiff's assertion that where an ALJ finds expert opinions to be persuasive, he may not decline to incorporate those opinions into an agency decision without explanation. *Wood v. Comm'r. of Soc. Sec.*, No. 3:18-CV-76, 2019 WL 1614591, at *3 (S.D. Ohio Apr. 16, 2019), *report and recommendation adopted*, No. 3:18-CV-76, 2019 WL 1958663 (S.D. Ohio May 2, 2019). However, the record here does not suggest that the ALJ below actually failed to incorporate persuasive medical opinions. Rather, the ALJ found certain expert opinions partially persuasive and only deviated semantically, in an effort to incorporate those opinions using "vocationally defined terms." (Doc. No. 7-2 at PageID 52.) Such action is hardly a deviation from positively weighed expert opinion and, to the extent that it is, the Court finds the ALJ's determination to be adequately explained by the need to analyze Plaintiff's case consistent with vocationally defined terms.

Accordingly, Plaintiff's Statement of Specific Errors (Doc. No. 8) and Plaintiff's Objections to the Magistrate Judge's Report and Recommendation (Doc. No. 11) are **OVERRULED**. The Court **ACCEPTS** the findings and recommendations made by Magistrate Judge Jolson, **ADOPTS** the Report and Recommendation (Doc. No. 11), and rules as follows:

1. The Commissioner's decision is **AFFIRMED**; and,
2. The Clerk is directed to **TERMINATE** this case on the Court's docket.

DONE and **ORDERED** in Dayton, Ohio, this Monday, March 3, 2025.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE